IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION CIVIL ACTION NO. 3:23-CV-221-RJC-DCK

NESIA AMAR,)
Plaintiff,)
v.)) <u>ORDER</u>
BANK OF AMERICA, N.A.,)
Defendant.)
)

THIS MATTER IS BEFORE THE COURT on "Defendant Bank Of America, N.A.'s Motion To Dismiss Plaintiff's Complaint" (Document No. 16) filed June 30, 2023. This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motion, the record, and applicable authority, the undersigned will direct that the pending motion to dismiss be denied as moot.

Federal Rule of Civil Procedure 15 applies to the amendment of pleadings and allows a party to amend once as a matter of course within 21 days after serving, or "if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." Fed.R.Civ.P. 15(a)(1). Rule 15 further provides:

(2) Other Amendments. In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.

Fed.R.Civ.P. 15(a)(2).

In this case, Plaintiff timely-filed a "First Amended Complaint..." (Document No. 18) on

July 11, 2023.

It is well settled that a timely-filed amended pleading supersedes the original pleading, and

that motions directed at superseded pleadings may be denied as moot. Young v. City of Mount

Ranier, 238 F.3d 567, 573 (4th Cir. 2001) ("The general rule ... is that an amended pleading

supersedes the original pleading, rendering the original pleading of no effect."); see also, Fawzy

v. Wauquiez Boats SNC, 873 F.3d 451, 455 (4th Cir. 2017) ("Because a properly filed amended

complaint supersedes the original one and becomes the operative complaint in the case, it renders

the original complaint 'of no effect."").

To the extent Defendant contends the Amended Complaint is deficient, this Order is

without prejudice to Defendant filing a renewed motion to dismiss the Amended Complaint.

IT IS, THEREFORE, ORDERED that "Defendant Bank Of America, N.A.'s Motion To

Dismiss Plaintiff's Complaint" (Document No. 16) is **DENIED AS MOOT**.

SO ORDERED.

Signed: July 21, 2023

David C. Keesler

United States Magistrate Judge

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